



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10

1200 Sixth Avenue, Suite 900  
Seattle, WA 98101-3140

OFFICE OF  
ECOSYSTEMS,  
TRIBAL AND PUBLIC  
AFFAIRS

August 6, 2014

Olivia Romano  
Project Manager  
US Army Corps of Engineers  
Seattle Regulatory Branch  
4735 East Marginal Way South  
Seattle, Washington 98134-3755

Ref.: Comments on the draft EIS for BP Cherry Point Dock project (EPA Project Number: 06-050-COE).

Dear Ms. Romano:

In accordance with our responsibilities under Section 309 of the Clean Air Act, National Environmental Policy Act (NEPA), and the Council on Environmental Quality regulations for implementing NEPA, the U.S. Environmental Protection Agency (the EPA) has reviewed the U.S. Army Corps of Engineers (the Corps) Draft Environmental Impact Statement (DEIS) for **BP Cherry Point Dock** in Whatcom County, Washington.

The DEIS analyzes potential incremental environmental risks of a proposal to authorize BP West Coast Products, LLC (BP) to continue to operate and maintain the North Wing of its Cherry Point Marine Terminal dock (or BP Cherry Point dock). BP first obtained the Corps permit for construction of the North Wing in 1996 and its extension in 2000. The Wing became operational in 2001. The dock infrastructure includes two wings (the South Wing and North Wing) that are connected to the shore and the BP Refinery tank farm upland with a trestle and pipelines in a Y-shaped configuration. The South Wing of the dock was authorized in 1969 and began receiving tankers with crude oil from the Alaskan North Slope in 1971. Unlike the North Wing, where operations are set to load and unload refined petroleum product only, the South Wing was configured to unload or load both crude oil and refined petroleum product.

Analysis of incremental environmental risks associated with the proposed action considered three alternative actions. Under the Proposed Action, the Corps would authorize BP to continue to operate the North and South Wings in their present configuration and modify the permit with additional conditions, including prohibiting the use of the North Wing for unloading or loading crude oil. Alternatively, the Corps would authorize BP to operate and maintain the dock without permit modifications or conditions. The third decision option is no action, which would revoke the existing permit and require BP to remove the North Wing facility. The DEIS does not identify a preferred alternative.

As a result of our review, the EPA has serious concerns regarding the existing and potential increase in vessel traffic to and from Cherry Point due to the project, including a potential increase in crude oil

transport to and/or from the South Wing. Increased vessel traffic in the Salish Sea due to operations at Cherry Point, especially if combined with projected vessel traffic increases from other proposed projects in the basin, raise serious concerns about vessel safety and increased risk of oil spills. We believe that operations at the BP Cherry Point facility, as proposed, have the potential to cause significant environmental degradation that could be corrected by project modification.

A central piece of information is whether the BP Cherry Point dock has increased or will increase the volume of crude oil handled at the facility (that will not be refined for consumption in the State of Washington) using 1977 volumes as a baseline. The DEIS presents information that clearly shows that the permit could be written so that the North Wing will handle only refined oil products. However, the information regarding the South Wing does not clearly elucidate the volumes of crude that could be handled there. The DEIS presents annual crude oil vessels and volumes from 1990 through 2010, but does not include 1977 baseline information, data from 2010 – 2013, or specific crude oil volume projections for the future. The data also appears to apply only to feed stocks. The DEIS notes that imports of crude oil are diversifying, with deliveries of crude arriving via pipeline and rail as well as by tanker. While oil tanker import of crude oil from Alaska is declining, pipeline and rail import of crude is expected to increase. The DEIS does not address current or projected exports of crude if supply exceeds the refining capacity of the facility.

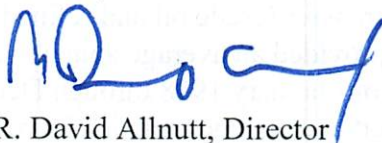
The DEIS analyses show that operation of two wings at the BP Cherry Point dock may result in an increase of 85 vessels per year above the maximum capacity of vessels calling at a single dock, with the maximum forecasted traffic with both wings in operation of 420 calls per year (p. 6.1-1), raising the probability for accidents and oil spills. This, coupled with a reasonably foreseeable increase in vessel traffic generated by other proposed projects in and around the analysis area and Salish Sea, create serious concerns regarding potential risk of accidents, oil spills, and introduction of invasive species. The Haro Strait and Boundary Pass areas are especially ecologically valuable and vulnerable, as the passages are relatively narrow, near numerous islands that host important avian and aquatic species and sensitive habitats.

Because of serious concerns about potential impacts to marine resources at Cherry Point and in Puget Sound resulting from increased vessel traffic and related risk of oil spills, missing and unclear information in the DEIS, we have assigned an EO-2 (Environmental Objections – Insufficient Information) rating to the DEIS. A detailed discussion of our concerns is enclosed.

We recommend inclusion of the missing information in the final EIS and development or modification of the permit for the BP Cherry Point marine terminal operations and maintenance to include an enforceable cap on allowable volumes of crude oil that can be handled at the facility. We also recommend that the Corps and the Coast Guard put measures in place to limit vessel traffic in vulnerable areas and to avoid and minimize vessel traffic impacts throughout the Salish Sea.

We look forward to continued involvement in the NEPA process for this project. If you have questions about our comments, please contact Christine Reichgott at (206) 553-1601 or via electronic mail at [reichgott.christine@epa.gov](mailto:reichgott.christine@epa.gov), or Theo Mbabaliye at (206)553-6322 or by electronic mail at [mbabaliye.theogene@epa.gov](mailto:mbabaliye.theogene@epa.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "R. David Allnutt", with a stylized flourish at the end.

R. David Allnutt, Director  
Office of Ecosystems, Tribal and Public Affairs

Enclosure

1. EPA detailed comments on the draft EIS for BP Cherry Point, Whatcom County, WA

## **EPA detailed comments on the draft EIS for BP Cherry Point Whatcom County, WA**

### **Vessel Traffic and Associated Risks**

The DEIS states that two primary measures of dock activity are the annual number of vessel calls to the dock and annual volume of material transfer (crude oil and refined petroleum product) across the dock (p. ES-6/7). Accordingly, the Corps provided an average annual number of vessel calls at the Cherry Point dock over the period starting from January 1998 through December 2010. Specifically, the document states that during that period, an average of about 16 vessels delivered crude oil to the dock each month and that in 2007, the maximum number of the vessels was 191. However, the document seems to be inconsistent as data on page 2-9 and Table 2-1 indicate an average of 12 vessels each month. If those vessel numbers are not accurate, then corresponding material transfer figures at the dock (table 2-2) need review and correction.

To fully ascertain the full picture of operations and draw reliable conclusions about environmental impacts, it would be beneficial to see comprehensive vessel call data covering the entire period of dock operations (1971 for the South Wing and 2001 for the North Wing). The data would be similar to those provided in table 5-35 (p. 5-63), with the exception that they would be monthly. For each platform, please provide monthly data showing the number of crude oil (South Wing) and refined product vessel calls (South and North Wings) at the dock, as well as respective volumes for each. Such a presentation would clearly show the number of ships calling at each dock, and the transferred volumes of crude and refined products. The final EIS should also include projections for future vessel call numbers and product volumes, including crude input from pipeline and rail.

As data in table 5-35 show, the single biggest crude oil spill at BP Cherry Point dock occurred in 1972. The average spill size was 21,000 gallons of crude oil and 250 gallons of refined petroleum product. Ten years later in 1981, a smaller oil spill occurred (284 gallons of refined petroleum product). The EPA is concerned about any increased risk of oil spills in Puget Sound, and the potential for serious adverse impacts to water quality, marine organisms and habitat. Therefore, we believe that the Corps should ensure appropriate limitations on vessel traffic at the BP Cherry Point facility and to continue work with the Coast Guard to ensure that appropriate measures are implemented for safety and minimizing the risk for spills. Additional measures may include, for example, requiring the applicant to have an approved oil spill prevention and cleanup plan, and to implement an exclusion zone around each vessel calling at the dock. Mitigation measures discussed in the DEIS (p. 7-1) are helpful in a general sense, but site-specific measures clearly tailored to address potential impacts of this project are needed.

To evaluate risk analysis, the Corps commissioned two separate vessel traffic studies, the George Washington University Vessel Traffic Risk Analysis (GWU-VTRA) and the Glosten Associates Vessel Traffic Analysis (TGA-VTA). A separate statistical model was used to assess the risk of accident and oil outflow for just the BP dock operations (p. 5-1). We appreciate data provided and associated discussion. However, we note that the two vessel traffic studies use different time baselines for their data, with the GWU-VTRA analysis using 2005 and 2025 to represent current and future conditions, respectively. The TGA-VTA used 2010 and 2030 for the same purpose. The studies also use different methodologies to examine the same vessel traffic variables and other analyses. Apparently, data were also modified using BP- provided forecast scenarios (p. 5-12), but data related to the development of those scenarios were not provided in the EIS, making it difficult for us to determine whether the

scenarios are appropriate. As an example, the GWU VTRA presents the low range traffic forecast scenario under which only 8-9 crude oil vessels would be calling on the dock in 2025 (p. 5-13). Yet, BP's own data show that no such low number of calls has ever been experienced at Cherry Point (p. 2-11). The forecasts set forth in table 5-5 (p. 5-14) are unrealistic, particularly for the low range traffic forecast; therefore, reliance on this forecast is likely to result in unreliable conclusions. Likewise, the TGA-VTA study indicates that 6-85 additional vessel calls were added to 2010 actual calls without an explanation of where those figures came from. We also question the representativeness of the median used to characterize oil outflow data in Appendix D (p. 103). It is important for the Corps to explain how the numbers in the tables were derived.

Regardless of these discrepancies, simulation results in the DEIS conclude that there would be increased vessel calls on the dock in the future as illustrated in tables 5-5 (p. 5-14) and 5-15 (p. 5-43). Such traffic could result in increased risk of an accidents. Cumulatively, the Corps concluded that additional traffic generated by the other proposed projects in the region will likely increase the potential for accidents and oil spills, with the Cherry Point area experiencing the greatest potential change in spill size (p. 5-58). Although the WU VTRA and TGA-VTA studies repeatedly assert that use of the North Wing would reduce the potential for accidents, oil spills, and potential oil spill volumes, in actuality, the additional facility will free the South Wing to increase operational capacity. This is because tanker traffic is likely to increase as wait times are reduced.

#### **Endangered Species and Marine Mammal Protection Acts (ESA and MMPA)**

Information in the DEIS indicates that the proposed action may result in impacts to ESA- and state-listed species that occur in the analysis area (p. 6.2-1), and that a draft Biological Evaluation detailing the effects of the proposed action to the species and their habitats has been prepared pursuant to ESA Section 7(c) to assist the Corps in fulfilling its obligation to consult with National Marine Fisheries Service (NMFS) and U.S. Fish and Wildlife Service (FWS) under section 7(a)(2) of the ESA. In the final EIS, please include information about the outcomes of consultations with NMFS and USFWS, including recommended measures to reduce risks and protect biota and habitat.

#### **Permits and other authorizations**

In addition to the permit extension that BP will be seeking from the Corps, the DEIS should include a list of all other permits/authorizations that the dock already has and will need including modification(s) to any existing permit or authorization, what activity and/or facility is regulated by the permit or authorization, entities that will issue each permit and authorization, when each will expire, and conditions to assure protection of human health and the environment. As an example, the DEIS indicates that annual preventive maintenance activities of the dock involving in-water, on-water, and underwater work are conducted under permits issued by the Corps and other appropriate state and federal agencies. However, no information is provided as to the permit name, issuing authority, current status, expiration date, and the process to obtain a new one, if necessary. Such information, presented in a consolidated fashion, will assist reviewers and decision-makers in evaluating risks and mitigation.

#### **Coordination with Tribal Governments**

In our scoping comments in September 2006, we recommended the Corps consult with each affected tribe, discuss concerns they might have with the project and find ways to resolve them. The DEIS indicates that several tribes may be affected by the proposed action, including Elwha, Lummi, Makah, and Nooksack. In particular, their subsistence fishing activities could be impacted by vessel traffic, crude or bunker oil and other oil product spills, and spill cleanup. Because the DEIS does not indicate

whether the Corps consulted with tribes to discuss the proposed action and impacts, we recommend the final EIS clarify the process used to consult with each tribe, issues raised, and outcomes of consultations between the Corps and each of the affected tribe.

**Dock operations monitoring and results**

The proposed action has the potential to impact a variety of marine resources for an extended period, especially if oil spills to the marine environment continue to occur. We recommend the final EIS include an environmental inspection and mitigation-monitoring program to ensure compliance with all mitigation measures and assess their effectiveness. The final EIS document should describe the monitoring program and how it would be used as an effective feedback mechanism so needed program adjustments are made to meet environmental objectives throughout the life of the permit.

As the dock has been in operation since 1971 (South Wing) and 2001 (North Wing), it would be important to discuss environmental monitoring results over the operational time period, and implications for the proposed action.